

JS 44 (Rev. 12/07, NJ 5/08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

JACQUELINE KURTA

(b) County of Residence of First Listed Plaintiff

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Craig Thor Kimmel, Esquire
Kimmel & Silverman, P.C.
30 E. Butler Pike
Ambler, PA 19002
(215) 540-8888

DEFENDANTS

NCO FINANCIAL SYSTEMS, INC.

County of Residence of First Listed Defendant

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL PROPERTY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C SECTION 1692

Brief description of cause:

Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S)**

(See instructions):

JUDGE

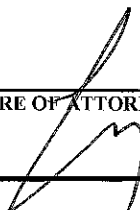
DOCKET NUMBER

Explanation:

DATE

SIGNATURE OF ATTORNEY OF RECORD

04/13/12



**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Jacqueline Kurta
v.
NCO Financial Systems, Inc.

CIVIL ACTION

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

<u>04/13/12</u>	<u>Craig Thor Kimmel</u>	<u>Jacqueline Kurta</u>
Date	Attorney-at-law	Attorney for
<u>215 540 8888</u>	<u>817 788 2864</u>	<u>kimmel@creditlan.com</u>
Telephone	FAX Number	E-Mail Address

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 1013 San Diego Rd., Santa Barbara, CA 93103

Address of Defendant: 507 Prudential Rd., Horsham PA 19044

Place of Accident, Incident or Transaction: _____

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ✓ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases 15 U.S.C. 1692
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Craig Mor Kimmel, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 04/13/12

Attorney-at-Law

57100

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 04/13/12

Attorney-at-Law

57100

Attorney I.D.#

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE**
3 **EASTERN DISTRICT OF PENNSYLVANIA**

4 JACQUELINE KURTA,)

5 Plaintiff)

6 v.)

7 NCO FINANCIAL SYSTEMS, INC.,)

8 Defendant)

Case No.:

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

(Unlawful Debt Collection Practices)

10 **COMPLAINT**

11 JACQUELINE KURTA (“Plaintiff”), by and through her attorneys,
12 KIMMEL & SILVERMAN, P.C., alleges the following against NCO FINANCIAL
13 SYSTEMS, INC. (“Defendant”):
14

16 **INTRODUCTION**

17 1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices
18 Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”), which prohibits debt collectors from
19 engaging in abusive, deceptive, and unfair practices.
20
21

22 **JURISDICTION AND VENUE**

23 2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d),
24 which states that such actions may be brought and heard before “any appropriate
25

1 United States district court without regard to the amount in controversy,” and 28
2 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising
3 under the laws of the United States.
4

5 3. Defendant conducts business and has an office in the Commonwealth
6 of Pennsylvania, and therefore, personal jurisdiction is established.

7 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1).
8
9

10 PARTIES

11 5. Plaintiff is a natural person residing in Santa Barbara, California
12 93103.
13

14 6. Plaintiff is a person granted a cause of action under the FDCPA. See
15 15 U.S.C. §1692k(a), and Wenrich v. Cole, 2000 U.S. Dist. LEXIS 18687 (E.D.
16 Pa. Dec 22, 2000).
17

18 7. Defendant is a national debt collection company with its corporate
19 headquarters located at 507 Prudential Road in Horsham, Pennsylvania, 19044.

20 8. Defendant is a “debt collector” as that term is defined by 15 U.S.C. §
21 1692a(6), and repeatedly contacted Plaintiff in an attempt to collect a debt.
22

23 9. Defendant acted through its agents, employees, officers, members,
24 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
25 representatives, and insurers.

FACTUAL ALLEGATIONS

10. At all relevant times, Defendant was contacting Plaintiff in an attempt to collect the debt of other persons.

11. Upon information and belief, the alleged debt at issue arose out of transactions, which were primarily for personal, family, or household purposes.

12. Beginning in or around August 2011, and continuing through February 2012, Defendant repeatedly and continuously contacted Plaintiff on her home and cellular telephones in its attempts to collect a consumer debt of other persons.

13. Plaintiff received phone calls and voicemail messages from Defendant on a number of occasions from the following phone numbers: (800) 550-9619 and (800) 445-4918, which the undersigned has confirmed are phone number for Defendant.

14. Defendant placed repeated calls to Plaintiff's home and cellular telephones almost everyday, sometimes calling as frequently as two (2) to three (3) times a day.

15. For example, Defendant contacted Plaintiff on her cellular telephone on: January 30, 2012, at 4:00 p.m.; January 31, 2012; February 1, 2012, at 4:12 p.m.; February 2, 2012, at 1:30 p.m.; February 3, 2012, at 12:13 p.m.; February 6,

1 2012, at 4:21 p.m.; February 7, 2012, at 5:15 p.m.; February 8, 2012, at 1:38 p.m.;
2 February 9, 2012, 2:47 p.m.; February 14, 2012, at 2:08 p.m.; February 15, 2012,
3 at 2:15 p.m.; February 16, 2012, at 3:00 p.m.; February 20, 2012, at 9:00 a.m.;
4 February 21, 2012, at 2:42 p.m.; and February 22, 2012, at 3:40 p.m.
5

6 16. In addition to calling Plaintiff, Defendant would leave messages on
7 Plaintiff's voicemail.
8

9 17. In its voicemails, Defendant identified the debtors as individuals other
10 than Plaintiff.

11 18. In an effort to get the calls to stop, Plaintiff called Defendant.

12 19. During this call Plaintiff spoke with a supervisor employed by
13 Defendant.
14

15 20. This supervisor told Plaintiff that Defendant was calling Plaintiff's
16 number looking for multiple different people—none of which were Plaintiff.
17

18 21. Defendant gave Plaintiff a list of names of the people that Defendant
19 was attempting to contact, but Plaintiff did not know any of them.

20 22. However, this did not deter Defendant, as it continued to call Plaintiff
21 in an attempt to collect a debt owed by another person.
22

23 23. Additionally, on numerous occasions, Plaintiff answered Defendant's
24 collection calls and informed its collectors that she is not the person they are
25 looking for and to stop calling her.

1 15. Following these conversations between the parties, neither Defendant
2 nor its collectors investigated or verified contact information prior to and after
3 calling Plaintiff.
4

5 16. Defendant and its collectors failed to update its records to avoid
6 further harassment of Plaintiff.
7

8 24. Instead, Defendant continued to contact Plaintiff in its attempts to
9 collect consumer debts of other persons.
10

11 25. Most recently, Defendant contacted Plaintiff on February 21, 2012, at
12 2:42 p.m.
13

14 26. Prior to contacting Plaintiff on this day, Defendant searched a
15 professional directory for psychotherapists and located Plaintiff's phone number in
16 order to contact her.
17

18 27. Defendant's actions in attempting to collect the alleged debt were
19 harassing, abusive and highly deceptive.
20

21 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES**
22 **ACT**
23

24 28. In its actions to collect a disputed debt, Defendant violated the
25 FDCPA in one or more of the following ways:

COUNT I

29. Defendant's conduct, detailed in the preceding paragraphs, violated 15 U.S.C. §1692b(3).

a. Section 1692b(3) of the FDCPA prohibits a debt collector from communicating with any person other than a consumer more than once unless requested to do so by such person or unless the debt collector reasonably believes that the earlier response of such person is erroneous or incomplete and that such person now has correct or complete location information.

b. Here, Defendant violated §1692b(3) of the FDCPA by communicating with Plaintiff more than once about a "Rachel Wilkins" and a "Robert Phelps."

c. Defendant knew that Plaintiff did not have correct or complete location information about these people as Plaintiff repeatedly informed Defendant that she did not know these individuals.

COUNT II

30. Defendant's conduct, detailed in the preceding paragraphs, violated 15 U.S.C. §1692c(b).

a. A debt collector violates §1692c(b) of the FDCPA by communicating, in connection with the collection of a debt, with a

1 any person other than the consumer, his attorney, a consumer
2 reporting agency if otherwise permitted by law, the creditor, the
3 attorney of the creditor, or the attorney of the debt collector,
4 without the prior consumer of the consumer given directly to the
5 debt collector.
6

7 a. Here, Defendant violated §1692c(b) of the FDCPA when it
8 communicated, in connection with the collection of a debt, with
9 Plaintiff about the debts of other people, "Rachel Wilkins" and a
10 "Robert Phelps," and Plaintiff did not know these people.
11

12 COUNT III

13
14 31. Defendant's conduct, detailed in the preceding paragraphs, violated
15 15 U.S.C. §§1692d and 1692d(5).
16

17 b. Section 1692d of the FDCPA prohibits debt collectors from
18 engaging in any conduct the natural consequences of which is to
19 harass, oppress or abuse any person in connection with the
20 collection of a debt.
21

22 c. Section 1692d(5) of the FDCPA prohibits debt collectors from
23 causing a telephone to ring or engaging any person in telephone
24 conversation repeatedly or continuously with the intent to annoy,
25 abuse, or harass any person at the called number.

1 d. Defendant violated §§1692d, and 1692d(5) of the FDCPA when it
2 caused Plaintiff's telephone to ring almost everyday, calling at
3 least two (2) times each day, and sometimes calling as frequently
4 as four (4) times a day, with the intent to annoy, abuse and harass
5 Plaintiff.
6

7 **COUNT IV**
8

9 27. Defendant's conduct, detailed in the preceding paragraphs, violated 15
10 U.S.C. §1692f.

11 a. Section 1692f of the FDCPA prohibits a debt collector from using
12 unfair or unconscionable means to collect or attempt to collect any
13 debt.
14

15 b. Defendant violated §1692f of the FDCPA when it called Plaintiff
16 regarding debts of other persons, despite knowing that Plaintiff
17 was not the person that they were seeking and having been
18 instructed by Plaintiff to stop calling her.
19

20 WHEREFORE, Plaintiff, JACQUELINE KURTA, respectfully prays for a
21 judgment as follows:
22

23 a. All actual damages suffered pursuant to 15 U.S.C.
24 §1692k(a)(1);
25

- 1 b. Statutory damages of \$1,000.00 for the violation of the FDCPA
2 pursuant to 15 U.S.C. §1692k(a)(2)(A);
3
4 c. All reasonable attorneys' fees, witness fees, court costs and
5 other litigation costs incurred by Plaintiff pursuant to 15 U.S.C.
6 §1693k(a)(3); and
7
8 d. Any other relief deemed appropriate by this Honorable Court.

9 **DEMAND FOR JURY TRIAL**

10 PLEASE TAKE NOTICE that Plaintiff, JACQUELINE KURTA, demands
11 a jury trial in this case.

12
13
14 RESPECTFULLY SUBMITTED,

15 DATED: 04/13/2012

 KIMMEL & SILVERMAN, P.C.

16 By: /s/ Craig Thor Kimmel
17 CRAIG THOR KIMMEL
18 Attorney ID # 57100
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20 Ambler, PA 19002
21 Phone: (215) 540-8888 ext. 103
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24
25